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*Attorneys for Defendants C. R. Bard, Inc. and  
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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products  
Liability Litigation,

No. 2:15-MD-02641-DGC

**THE PARTIES' AMENDED JOINT  
REPORT ON THE SETTLEMENT  
STATUS OF CASES**

Pursuant to Case Management Order No. 42 (Doc. 164343), the parties submit this amended monthly report concerning the settlement status of cases pending in this MDL. The amended report deletes one case that was inadvertently included in Section “T” of the report filed on September 3, 2019 (Doc. 20042).

### **I. TRACK 1 CASES**

On July 26th, the parties provided the Court with a list of cases that have been resolved in principle pursuant to an executed release or term sheet (Doc. 19798-1). The parties have minimal changes to the Track 1 list.

The following cases have been identified as erroneously listed on Track 1 and should now be listed on Track 2:

- Lisa Smullen v. C. R. Bard, Inc., et al. (CV-15-01900-PHX-DGC)
- Casey Wyatt v. C. R. Bard et al. (CV-15-01628-PHX-DGC)
- Christine Lorth v. C. R. Bard et al. (CV-15-02446-PHX-DGC)

The following case was also listed erroneously on Track 1; however, Plaintiff’s counsel as recently learned that the Plaintiff has passed away.

- Maureen L. Wallace v. C. R. Bard, Inc. and Bard Peripheral Vascular, Inc., United States District Court, District Court of Arizona, Phoenix Division, CV-16-00392-PHX-DGC

For the balance of the cases on Track 1 the parties are continuing their efforts to finalize the settlements.

### **II. TRACK 2 CASES**

On July 26th, the parties provided the Court with a list of cases that are the subject of substantive settlement negotiations, with a likelihood of ultimately settling (Doc. 19798-2). One or more of the parties have concluded that further settlement efforts in some of those cases are not warranted at this time and that the cases should move to Track 3. Those cases are listed in Schedule “A” (cases proposed for remand by the JPML) and Schedule “B” (direct-filed cases appropriate for transfer to the designated jurisdiction). Settlement discussions are continuing in the remaining cases previously identified in Track 2. Since the date of the last report, the Defendants’ attorneys have collected medical records for over

1 2800 cases that are currently in Track 2, and have had meetings and discussions with  
2 multiple attorneys representing the Plaintiffs, including a mediation concerning hundreds  
3 of Track 2 cases. Those discussions are ongoing, and the parties remain hopeful that many  
4 – if not all – of those cases will ultimately be settled before November 1, 2019, when all  
5 cases for which neither a release nor term sheet has been executed will be recommended to  
6 the JPML for remand or will be transferred under §1404(a) in accordance with CMO No.  
7 42 .

### 8 **III. TRACK 3 CASES**

9 In Case Management Order No. 42, the Court stated that “[a]ny case in either track  
10 may be removed from the track and from this MDL upon counsel for either side concluding  
11 that further settlement efforts in the case are not warranted.” (Doc. 16343 at 6). Counsel  
12 for one or both sides has made that determination regarding a number of cases.

#### 13 **A. Cases Transferred into the MDL by the JPML**

14 Those cases originally transferred to this MDL by the JPML, which are therefore  
15 eligible for remand by the Panel, are listed in Schedule “A”.

#### 16 **B. Cases Directly Filed in this Court**

17 Those cases that were direct-filed in this Court and are ripe for transfer to the  
18 designated districts are listed in Schedule “B”. This schedule also notes those cases where  
19 subject matter jurisdiction does not exist. The parties will file a joint report on September  
20 6, 2019: (1) stating what should be done with the Track 3 cases that lack subject matter  
21 jurisdiction and (2) addressing the subject matter jurisdiction issues in *Vollick*, CV-17-2588,  
22 *Dukes*, CV-19-1348, and *Fuller*, CV-18-1414. (Doc. 19881). Unless otherwise noted, the  
23 jurisdiction identified for transfer is the one listed in the short form complaint. This  
24 schedule further identifies those cases where a complete Profile Form has not been served.  
25 The Defendants’ respectfully request that the Court enter an order requiring those Plaintiffs  
26 who have not served a complete Profile Form to do so within twenty (20) days.

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1 The Defendants also request that the remand/transfer order for these cases  
2 specifically preserve their right to challenge venue and personal jurisdiction upon remand,  
3 as the Court did in the previous remand/transfer order (Doc. 19899).

4 Respectfully submitted, this 4th of September, 2019.

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22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on September 4, 2019, the foregoing was electronically filed  
24 with the Clerk of Court using the CM/ECF system which will automatically send email  
25 notification of such filing to all attorneys of record.

26  
27 /s/ Richard B. North  
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